

### **REMARKS**

Claim 30 has been amended to insert the limitations of claims 36 and 39. Claims 37-39 and 41-46 have been canceled. No new matter is added by these amendments.

#### **Formal Matters**

Page 2 of the Office action comments on claim 36 wherein the concentration is said to be claimed in terms of percent by volume. Claim 36 did not have any percentage included in it *per se*, in any event, claim 36 has been canceled.

#### **The rejection under 35 U.S.C. 112 paragraph 1**

Claims 41-46 were rejected under 35 U.S.C. 112 paragraph 1 as lacking adequate written description. This basis for rejection is now moot as claims 41-46 have been canceled.

#### **The rejection under 35 U.S.C. 102:**

Claims 30 and 36-37 were rejected under 35 U.S.C. 102(b) as being anticipated by Srivastava, et al. The limitations of claim 39, which was not included in this rejection are now set forth in claim 30. Thus, claim 30 is free of this rejection. Claim 40, which also remains, was also not subject to this rejection.

#### **Double Patenting**

All claims were rejected on the grounds of non-statutory obviousness type double patenting over claims 1-7 of US Patent 6,197,814. A terminal disclaimer with respect to this patent is enclosed, thus obviating this basis for rejection.

All claims were rejected provisionally for double patenting over a number of copending applications: 10/936,465; 11/144,398 11/729,175 and 11/407,654.

US serial number 11/407,654 has been abandoned thus rendering that portion of the rejection moot.

With respect to US serial numbers 10/936,465 and 11/144,398, the claims as currently pending in these applications are to essentially non-aqueous compositions. As the claims in the present case are directed to aqueous solutions, applicants respectfully submit that the double patenting rejection is inappropriate.

With respect to US 11/729,175, again, the present claims are directed to aqueous solutions whereas the claims in the '175 application are directed to anhydrous compositions. Therefore, obviousness type double patenting is not present.

### **Conclusion**

Claim 30 now contains the limitations of claim 39 which was not rejected on any basis other than double patenting. The only other remaining claim, claim 40 was not made the basis of any rejection either, other than double patenting.

As to the double patenting rejections, a terminal disclaimer has been submitted with respect to the issued patent and the remaining objections are provisional. One of these four remaining rejections is moot in view of the abandonment of the referent application and the other three are believed in error in view of the strict requirement in the present case for an aqueous solution.

In light of the amendments and discussion above, applicants believe that claims 39 and 40 are in a position for allowance and passage of these claims to issue is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of

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